



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1995

Ms. Alesia L. Sanchez
Legal Assistant
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-101

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29549.

The Texas Department of Insurance (the "department") received a request for information concerning American Insurance Company and Midwest National Life Insurance Company. You say the department will release some of the requested information. However, the department seeks to withhold portions of the requested information based on section 552.101 of the Government Code in conjunction with section 10 of article 21.49-1 of the Insurance Code. You enclosed representative samples of the information the department seeks to withhold from public disclosure.

Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information that is confidential by statute. Section 10 of article 21.49-1 of the Insurance Code states as follows:

All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 9 and all information reported pursuant to Section 3, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, duly authorized law

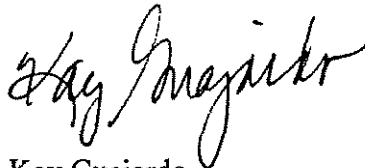
attorney general, and any grand jury, in the official conduct of the respective duties of those persons, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

You inform us that the information you enclosed was obtained in the course of an examination or investigation made pursuant to section 9 of article 21.49-1 of the Insurance Code and reported pursuant to section 3 of the same provision. We, therefore, conclude that the department must withhold the information based on section 552.101 of the Government Code as information made confidential by statutory law by virtue of section 10 of article 21.49-1 of the Insurance Code.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with the first name "Kay" being more prominent.

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 29549

Enclosures: Submitted documents

cc: Mr. Thomas L. Bose
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(w/o enclosures)